

Remarks

Applicants have carefully reviewed the Office Action mailed on March 7, 2006. Applicants respectfully traverse all objections, rejections, and assertions made by the Examiner. Claims 1-27 remain pending.

Rejection under 35 U.S.C. § 103(a)

Claims 1-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCoy in U.S. Patent Pub. No. US 2003/0234243 A1 in view of Flanagan in U.S. Patent No. 6,696,667 and Shedlov in U.S. Patent No. 6,874,789.

Shedlov issued after the filing date of the instant application and thus qualifies as prior art, if at all, only under 35 U.S.C. § 102(e). The instant application and the Shedlov patent were, at the time the invention of the instant application was made, owned by SciMed Life Systems, Inc. Applicants submit that Shedlov is thus disqualified from being used in a rejection under 35 U.S.C. § 103(a) against claims of the instant application. See MPEP 706.02(l)(2).

The Examiner asserts that McCoy teaches the invention substantially as claimed except that McCoy fails to teach a motor or two surfaces. Flanagan is cited as disclosing a system for laser cutting a stent that includes a rotational motor drive and linear motion drive. Shedlov is cited as disclosing a rotary motor assembly having different surfaces for the apparatus. The Examiner then asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use rotary and linear motors as taught by Flanagan as the movement assemblies disclosed by McCoy and to use multiple surfaces, as taught by Shedlov in the McCoy system because such modification is merely a variation of the apparatus layout and would minimize real estate and make the best use of manufacturing floor space. Applicants respectfully traverse the rejection.

As stated above, Shedlov is disqualified as prior art against the instant application. The combination of McCoy and Flanagan does not appear to teach or suggest each and every element of the claims because neither reference teaches or suggests a device having a base with first and second surfaces where a laser cutting system is attached to the first surface and a linear motor is attached to the second surface, as is recited in independent claim 1. Further, the combination of McCoy and Flanagan does not appear to teach a

device including a base having a bottom surface, and a first motor having a top surface and a bottom surface, where the bottom surface of the first motor is attached to the bottom surface of the base member, as is recited in independent claim 13. For at least the reasons set forth above, the combination of McCoy and Flanagan do not appear to teach the elements of independent claims 23, 25, and 27. Applicants submit that neither McCoy, Flanagan, or a combination thereof teaches or suggests each and every element of the independent claims. Dependent claims 2-12, 14-22, 24, and 26 recite additional elements not taught or suggested by the combination of McCoy and Flanagan for at least the reasons set forth above. Reconsideration and withdrawal of the rejection are respectfully requested.

Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

KENNETH MERDAN ET AL.

Date:

May 05, 2006

By their Attorney,

Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050